

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

EMERY SELYMES, individually, and as
Personal Representative of the ESTATE OF
LINDA MARIE SELYMES,

No.:

Plaintiff,

NOTICE OF REMOVAL

V.

QUALITY FOOD CENTER, INC. (aka QFC), a wholly owned subsidiary of The KROGER CO., an Ohio Corporation doing business in Washington,

Defendants.

TO: Clerk of the Court

AND TO: Plaintiff Emery Selymes individually, and as Personal Representative of the Estate of Linda Marie Selymes

AND TO: John J. Greaney and Karen J. Scudder, Attorneys for Plaintiff

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant The Kroger Co. (“Kroger”) hereby removes to this Court the state court action described below.

1. BACKGROUND

1. On June 22, 2020 Plaintiff Emery Selymes individually, and as personal
representative of the estate of Linda Marie Selymes filed a Complaint against "Quality Food

1 Center, Inc.” and The Kroger Co. in Washington State Superior Court in and for King County
 2 as Cause Number 20-2-10269-5 KNT, entitled *Emery Selymes, individually and as Personal*
 3 *Representative of the Estate of Linda Marie Selymes v. Quality Food Center Inc. and The*
 4 *Kroger Co.* (the “State Court Action”).

5 2. On July 2, 2020, Plaintiffs served a copy of the Summons and Complaint in
 6 the State Court Action on CSC, registered agent for Defendant The Kroger Co. CSC
 7 subsequently sent copies of the summons and complaint to Kroger. This Notice of Removal
 8 is timely filed with 30 days of Kroger’s receipt of the Complaint pursuant to 28 U.S.C. §
 9 1446(b).

10 **II. JURISDICTION**

11 3. The State Court Action may be removed to this Court pursuant to 28 U.S.C. §
 12 1441(b) because this Court has jurisdiction under 28 U.S.C. § 1332(a).

13 4. Complete diversity exists between the parties because plaintiff Emery Selymes
 14 and defendant The Kroger Co. are citizens of different states. The Kroger Co. is an Ohio
 15 corporation with its principal place of business in Cincinnati, Ohio. Plaintiff Emery Selymes
 16 is a resident of King County, Washington and the decedent Linda Marie Selymes was a
 17 resident of King County, Washington. The Complaint in this matter also names “Quality
 18 Food Center, Inc.” as a defendant and incorrectly identifies this entity as a wholly owned
 19 subsidiary of The Kroger Co. Quality Food Centers, Inc. was at one time a Washington
 20 corporation but it was acquired by merger with Fred Meyer Stores, Inc. in 2004. Fred Meyer
 21 Stores, Inc. is not named as a party to this action, but it is an Ohio corporation with its
 22 principal place of business in Cincinnati, Ohio. In 2004, after being acquired by Fred Meyer
 23 Stores, Inc., Quality Food Centers, Inc. was merged out of existence. Quality Food Centers,
 24 Inc. became inactive in 2004 and no longer existed as a corporate entity at the time the
 25 Complaint was filed in this action on June 22, 2020.

5. The amount in controversy exceeds \$75,000. In the Complaint, Plaintiff alleges that Linda Marie Selymes suffered severe injuries including head trauma and died a few hours later from blunt force head trauma. The Complaint alleges damages including expenses for medical care, death, and funeral expenses, wrongful death and loss of consortium, and damages for pain, anxiety, distress, agony, and suffering under Washington's survival statute. Based on the injuries and damages, including the death of Ms. Selymes, there is no question that the amount in controversy requirement is met. See Declaration of Charles A. Willmes in Support of Notice of Removal.

III. VENUE AND ASSIGNMENT

6. Venue is proper in the United States District Court for the Western District of Washington because it is the district embracing the place where the State Court Action is pending.

7. Assignment is proper to the Seattle Division because Plaintiffs Emery Selymes individually, and as Personal Representative of the Estate of Linda Marie Selymes filed their Complaint in King County, Washington and allege that their causes of action arose in King County, Washington.

IV. PROCEDURAL REMOVAL

8. The process, pleadings, and orders served on The Kroger Co. in this action include the Summons and Complaint. In accordance with 28 U.S.C. § 1446(a) and LCR 101, a true and correct copy of the process, pleadings, and orders, as well as any additional records in the State Court Action are attached to this Notice.

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1 9. In accordance with 28 U.S.C. § 1446(d), defendant Kroger will file, in King
2 County Superior Court, a Notice to Plaintiffs and to the State Court Clerk of Removal to the
3 U.S. District Court.

4 DATED: July 28, 2020

5 BULLIVANT HOUSER BAILEY PC

6 
7 By _____
8 Charles A. Willmes, WSBA #23216

9 Attorneys for Defendant The Kroger Co.

10 4816-7972-9348.1

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of July 2020, I caused to be served the foregoing on the following at the following:
by:
Greaney Scudder Law Firm, PLLC
John J. Greaney, WSBA #11252
Karen J. Scudder, WSBA #35351
203 Madison Avenue
Kent, Washington 98032
Attorney for Plaintiff

U.S. Postal Service, ordinary first-class mail
 U.S. Postal Service, certified or registered mail, return receipt requested
 Hand Delivery
 E-Service
 Other (specify) _____

/s Deb Metz

Deb Metz

4816-7972-9348.1